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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/728,701

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Mark Muhlestein

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EXAMINER

ABRISHAMKAR, KAVEH

ART UNIT

PAPER NUMBER

2131

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/728,701

Applicant(s)

MUHLESTEIN, MARK

Examiner

Kaveh Abrishamkar

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 94-114 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 94-114 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/18/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 20, 2006 has been entered.

2. Claims 1-93 have been canceled and claims 94-114 have been newly added.
3. Claims 94-114 are currently being considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 103-114 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 103 and 109 teach a cluster of devices scanning the file simultaneously for viruses. The specification never explicitly mentions this step of each computer in a cluster simultaneously scanning a file for a virus.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 94-114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al. (U.S. Patent 6,088,803) in view of Bates et al. (U.S. Patent 6,721,721).

Regarding claim 94, Tso discloses:

A method comprising:

receiving, at a storage server, requests for a plurality of files stored at the storage server, from at least one client of the storage server (Figure 2 item 20, column 2 lines 62-67);

at the storage server, receiving results on the plurality of cluster devices' operations on the plurality of files (Figure 2 item 60, item 70, column 3 lines 1-10); and

responding to the requests according to said results (Figure 2 item 60, item 70, column 3 lines 1-10).

Tso does not explicitly state that the storage server causes a plurality of cluster devices that are external to the storage server to execute an operation on the plurality of files

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simultaneously. Bates teaches creating an access path to a processing cluster, and processing a file in the processing cluster (column 3 lines 38 – 55, column 4 lines 50-55, column 8 lines 16 – 29). Both Bates and Tso pertain to methods of virus scanning and reporting and are therefore analogous arts. Bates states that using multiple computers to scan for virus information permits “the responsibility for generating virus status information, as well as the processing horsepower required to generate the virus status information, to be allocated among the multiple computers” (column 3 lines 38 – 55). Further, Bates states, “by distributing the virus checking responsibilities in this manner, a comparatively greater volume of virus status information may be generated and/or the timeliness of updates to existing virus status information may be improved” (column 3 lines 51 – 55). Therefore it would have been obvious to one of ordinary skill in the art at the time the applicant’s invention was made to combine the teachings of Tso-Bates with the cluster of virus scanning devices of Bates to achieve the benefits of reduction of processing power at the scanning device, diversifying the source of virus status information, and as a result, increasing the timeliness of virus status information and the volume of virus status information.

Claim 95 is rejected as applied above in rejecting claim 94. Furthermore, Tso discloses:

The method of claim 94, wherein said operation comprises a virus scan operation, a compression operation, or an encryption operation (column 2 lines 37-44).

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Claim 96 is rejected as applied above in rejecting claim 94. Furthermore, Tso does not explicitly disclose the method of sending an identifier and path of each of the plurality of files from the storage server to the plurality of cluster devices. Bates discloses sending the ID and the path of said file from said filer to said processing cluster (column 6 line 65 – column 7 line 19). It would have been obvious to send the ID and path of the file to the processing cluster following the logic used above in rejecting the parent claims. Also, it would have been obvious since the files are stored in a database along with results of virus scans in both the inventions of Tso and Bates, that a ID is needed to identify the file and its resultant virus scan in a database.

Claim 97 is rejected as applied above in rejecting claim 96. Furthermore, Tso discloses:

The method of claim 96, wherein said sending is accomplished by using non-uniform memory access (column 5 lines 1-63).

Claim 98 is rejected as applied above in rejecting claim 96. Furthermore, Tso discloses:

The method of claim 96, wherein said sending is accomplished by using a communications network (column 5 lines 1-63).

Claim 99 is rejected as applied above in rejecting claim 96. Furthermore, Tso discloses:

The method of claim 96, wherein said sending is accomplished by using a direct connection (column 5 lines 1-63).

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Claim 100 is rejected as applied above in rejecting claim 94. Furthermore, Tso discloses:

The method of claim 94, wherein responding to the requests according to said results comprises:

The method of claim 94, wherein responding to the requests according to said results comprises:

for each of the plurality of files, sending the corresponding file to a client requesting the corresponding file if said results indicate that the corresponding file is safe to send (column 3 lines 39-54).

Claim 101 is rejected as applied above in rejecting claim 100. Furthermore, Tso discloses:

The method of claim 100, wherein a file is considered to be safe if the file is not infected with any viruses (column 3 lines 39-54).

Claim 102 is rejected as applied above in rejecting claim 94. Tso does not explicitly disclose that the cluster of devices is a cluster of interconnected personal computers. Bates teaches creating an access path to a processing cluster, and processing a file in the processing cluster (column 3 lines 38 – 55, column 4 lines 50-55, column 8 lines 16 – 29). Both Bates and Tso pertain to methods of virus scanning and reporting and are therefore analogous arts. Bates states that using multiple computers to scan for virus information permits “the responsibility for generating virus status information, as well as

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the processing horsepower required to generate the virus status information, to be allocated among the multiple computers" (column 3 lines 38 – 55). Further, Bates states, "by distributing the virus checking responsibilities in this manner, a comparatively greater volume of virus status information may be generated and/or the timeliness of updates to existing virus status information may be improved" (column 3 lines 51 – 55). Therefore it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to combine the teachings of Tso-Bates with the cluster of virus scanning devices of Bates to achieve the benefits of reduction of processing power at the scanning device, diversifying the source of virus status information, and as a result, increasing the timeliness of virus status information and the volume of virus status information.

Regarding claim 103, Tso discloses:

An apparatus comprising:

a processor (Figure 2 item 20, column 2 lines 62-67);

a mass storage facility, the mass storage facility storing a plurality of files (Figure 4 item 30, column 5 lines 1-43);

a memory coupled to the processor, the memory storing instructions which when executed by the processor, cause the processing system to perform a process, the process comprising:

receiving requests for the plurality of files (Figure 2 item 20, column 2 lines 62-67);

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receiving results from the plurality of cluster devices regarding the scanning
Figure 2 item 60, item 70, column 3 lines 1-10); and

responding to the requests according to the results (Figure 2 item 60, item 70,
column 3 lines 1-10).

Tso does not explicitly disclose requesting a plurality of cluster devices external to the apparatus to scan the plurality of files simultaneously for viruses, said requesting including sending an identifier and path of each of the plurality of files to the plurality of cluster devices. Tso does not explicitly state that the storage server causes a plurality of cluster devices that are external to the storage server to execute an operation on the plurality of files simultaneously. Bates teaches creating an access path to a processing cluster, and processing a file in the processing cluster (column 3 lines 38 – 55, column 4 lines 50-55, column 8 lines 16 – 29). Both Bates and Tso pertain to methods of virus scanning and reporting and are therefore analogous arts. Bates states that using multiple computers to scan for virus information permits “the responsibility for generating virus status information, as well as the processing horsepower required to generate the virus status information, to be allocated among the multiple computers” (column 3 lines 38 – 55). Further, Bates states, “by distributing the virus checking responsibilities in this manner, a comparatively greater volume of virus status information may be generated and/or the timeliness of updates to existing virus status information may be improved” (column 3 lines 51 – 55). Therefore it would have been obvious to one of ordinary skill in the art at the time the applicant’s invention was made

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to combine the teachings of Tso-Bates with the cluster of virus scanning devices of Bates to achieve the benefits of reduction of processing power at the scanning device, diversifying the source of virus status information, and as a result, increasing the timeliness of virus status information and the volume of virus status information.

Furthermore, Tso does not explicitly disclose the method of sending an identifier and path of each of the plurality of files from the storage server to the plurality of cluster devices. Bates discloses sending the ID and the path of said file from said filer to said processing cluster (column 6 line 65 – column 7 line 19). It would have been obvious to send the ID and path of the file to the processing cluster following the logic used above in rejecting the parent claims. Also, it would have been obvious since the files are stored in a database along with results of virus scans in both the inventions of Tso and Bates, that a ID is needed to identify the file and its resultant virus scan in a database.

Claim 104 is rejected as applied above in rejecting claim 103. Furthermore, Tso discloses:

The apparatus of claim 103, wherein sending an identifier and path of each of the plurality of files to the plurality of cluster devices is accomplished by using non-uniform memory access (column 5 lines 1-63).

Claim 105 is rejected as applied above in rejecting claim 103. Furthermore, Tso discloses:

The apparatus of claim 103, wherein sending an identifier and path of each of the plurality of files to the plurality of cluster devices is accomplished by using a communications network (column 5 lines 1-63).

Claim 106 is rejected as applied above in rejecting claim 103. Furthermore, Tso discloses:

The apparatus of claim 103, wherein sending an identifier and path of each of the plurality of files to the plurality of cluster devices is accomplished by using a direct connection (column 5 lines 1-63).

Claim 107 is rejected as applied above in rejecting claim 103. Furthermore, Tso discloses:

The apparatus of claim 103, wherein responding to the requests according to the results comprises:

for each of the plurality of files, sending the corresponding file to a client requesting the corresponding file if the results indicate that the corresponding file is safe to send (column 3 lines 39-54).

Claim 108 is rejected as applied above in rejecting claim 107. Furthermore, Tso discloses:

The apparatus of claim 107, wherein a file is considered to be safe if the file is not infected with any virus (column 3 lines 39-54).

Regarding claim 109, Tso discloses:

A machine-readable medium having sequences of instructions stored therein which, when executed by a processor, cause the processor to perform a process comprising:

receiving requests for a plurality of files stored at a storage server (Figure 2 item 20, column 2 lines 62-67);

receiving results from the plurality of cluster devices regarding the scanning (Figure 2 item 60, item 70, column 3 lines 1-10); and

responding to the requests according to the results (Figure 2 item 60, item 70, column 3 lines 1-10).

Tso does not explicitly state that the storage server causes a plurality of cluster devices that are external to the storage server to execute an operation on the plurality of files simultaneously. Bates teaches creating an access path to a processing cluster, and processing a file in the processing cluster (column 3 lines 38 – 55, column 4 lines 50-55, column 8 lines 16 – 29). Both Bates and Tso pertain to methods of virus scanning and reporting and are therefore analogous arts. Bates states that using multiple computers to scan for virus information permits “the responsibility for generating virus status information, as well as the processing horsepower required to generate the virus status information, to be allocated among the multiple computers” (column 3 lines 38 – 55). Further, Bates states, “by distributing the virus checking responsibilities in this manner,

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a comparatively greater volume of virus status information may be generated and/or the timeliness of updates to existing virus status information may be improved" (column 3 lines 51 – 55). Therefore it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to combine the teachings of Tso-Bates with the cluster of virus scanning devices of Bates to achieve the benefits of reduction of processing power at the scanning device, diversifying the source of virus status information, and as a result, increasing the timeliness of virus status information and the volume of virus status information. Furthermore, Tso does not explicitly disclose the method of sending an identifier and path of each of the plurality of files from the storage server to the plurality of cluster devices. Bates discloses sending the ID and the path of said file from said filer to said processing cluster (column 6 line 65 – column 7 line 19). It would have been obvious to send the ID and path of the file to the processing cluster following the logic used above in rejecting the parent claims. Also, it would have been obvious since the files are stored in a database along with results of virus scans in both the inventions of Tso and Bates, that a ID is needed to identify the file and its resultant virus scan in a database.

Claim 110 is rejected as applied above in rejecting claim 109. Furthermore, Tso discloses:

The machine-readable medium of claim 109, wherein sending an identifier and path to each of the plurality of files to the plurality of cluster devices is accomplished by using non-uniform memory access (column 5 lines 1-63).

Claim 111 is rejected as applied above in rejecting claim 109. Furthermore, Tso discloses:

The machine-readable medium of claim 109, wherein sending an identifier and path of each of the plurality of files to the plurality of cluster devices is accomplished by using a communications network (column 5 lines 1-63).

Claim 112 is rejected as applied above in rejecting claim 109. Furthermore, Tso discloses:

The machine-readable medium of claim 109, wherein sending an identifier and path of each of the plurality of files to the plurality of cluster devices is accomplished by using a direct connection (column 5 lines 1-63).

Claim 113 is rejected as applied above in rejecting claim 109. Furthermore, Tso discloses:

The machine-readable medium of claim 109, wherein responding to the requests according to the results comprises:

for each of the plurality of files, sending the corresponding file to a client requesting the corresponding file if the results indicate that the corresponding file is safe to send (column 3 lines 39-54).

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Claim 114 is rejected as applied above in rejecting claim 109. Furthermore, Tso discloses:

The machine-readable medium of claim 109, wherein a file is considered to be safe if the file is not infected with any virus (column 3 lines 39-54).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaveh Abrishamkar whose telephone number is 571-272-3786. The examiner can normally be reached on Monday thru Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

K.A.

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2/4/2007



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